

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

FILED

2011 JUN 23 P 2:20

U.S. DISTRICT COURT
N.D. OF ALABAMA

**STAR DISCOUNT PHARMACY,
INC., an Alabama Corporation;
PROPST DISCOUNT DRUGS,
INC., an Alabama Corporation;
C&H PHARMACY, INC., an
Alabama Corporation; DARDEN
HERITAGE, an individual;**

Plaintiffs,

vs.

**MEDIMPACT HEALTHCARE
SYSTEMS, INC., a California
Corporation; MICHAEL STRUHS,
an individual; NICOLE ADAMS,
an individual;**

Defendants.

CIVIL ACTION NUMBER

CV-11-K-2206-NE

**Case removed from Circuit Court
of Madison County, Alabama,
Case No. CV-2011-900658-WKB**

NOTICE OF REMOVAL

COME NOW defendants MedImpact Healthcare Systems, Inc., Michael Struhs and Nicole Adams, and give notice that this cause is hereby removed from the Circuit Court of Madison County, Alabama to the United States District Court for the Northern District of Alabama, Northeastern Division. As grounds for this removal, defendants state as follows:

1. This lawsuit is a civil action within the meaning of the Acts of Congress relating to removal of cases. The removed case is a civil action filed by plaintiffs Star Discount Pharmacy, Inc., Propst Discount Drugs, Inc., C&H Pharmacy, Inc., and Darden Heritage on May 24, 2011, in the Circuit Court of Madison County, Alabama, bearing Case No. CV-2011-900658-WKB and styled *Star Discount Pharmacy, Inc., Propst Discount Drugs, Inc., C&H Pharmacy,*

Inc., and Darden Heritage v. MedImpact Healthcare Systems, Inc., Michael Struhs, and Nicole Adams.

2. The Summons and Complaint were served upon MedImpact Healthcare Systems, Inc. on May 31, 2011, upon Michael Struhs on May 28, 2011, and upon Nicole Adams on June 22, 2011.

3. This Court has original subject matter jurisdiction over the suit under 28 U.S.C. §1331, in that it is a civil action arising under the Constitution, laws, or treaties of the United States, and, therefore, this action is one that may be removed to this Court pursuant to the provisions of 28 U.S.C. §§1441(a) and (c). Because there is no doubt that the plaintiffs' Complaint – on its face – asserts a federal claim against defendants when it alleges various violations of the RICO statute, removal is proper.

4. A RICO claim is properly removed to federal court on the basis of federal question jurisdiction. *See Carlsbad Technology, Inc. v. HIF Bio, Inc.*, 129 S.Ct. 1862, 1867, 173 L.Ed.2d 843 (2009); *Ware v. Fleetboston Financial Corp.*, 180 Fed. Appx. 59, 61-64 (11th Cir. 2006); *Aldana v. Del Monte Fresh Produce, N.A., Inc.*, 416 F.3d 1242, 1254 (11th Cir. 2005).

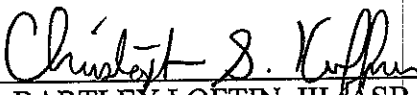
5. Furthermore, this Court has supplemental jurisdiction over the other claims asserted by the plaintiffs pursuant to 28 U.S.C. §§1367(a) and 1441(c), because these claims are “so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.”

6. Pursuant to 28 U.S.C. §1446(d), defendants are simultaneously filing written notice of this removal with the Clerk of the Circuit Court of Madison County, where the action is currently pending.

7. Pursuant to 28 U.S.C. § 1446(a), defendants attach a copy of the complete state court file to this Notice of Removal. Defendants simultaneously are providing a copy of the state court file on a disk to the Clerk of this Court.

8. Defendants MedImpact Healthcare Systems, Inc., Michael Struhs, and Nicole Adams accordingly pray that this Court take jurisdiction of this action to its conclusion and to final judgment, to the exclusion of any further proceedings in the state court in accordance with the above law.

Respectfully Submitted,


G. BARTLEY LOFTIN, III (ASB-2621-T78G)
CHRISTOPHER S. KUFFNER (ASB-1938-O65K)

**Attorneys for Defendants MedImpact
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following counsel of record to this proceeding by placing a copy of same in the United States Mail, properly addressed and postage prepaid this 23rd day of June, 2011:

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